

SIMPLIFY & MAKE PERMANENT THE INDIAN EMPLOYMENT CREDIT

Current Law – Indian Employment Credit

Section 45A provides a 20 percent credit against income tax liability to employers for up to \$20,000 of qualified wages and qualified employee health insurance costs paid or incurred by the employer for services performed by qualified employees. A "qualified employee" is an employee who is an enrolled member (or the spouse of an enrolled member) of an Indian tribe, who performs substantially all of the services within an Indian reservation, and whose principal place of abode while performing such services is on or near the reservation in which the services are performed. In addition, an employee will not be treated as a "qualified employee" if the total amount of wages paid or incurred by the employer to such employee exceeds an inflation-adjusted amount currently at \$45,000.

The Indian employment credit is an incremental credit. It is equal to 20 percent of the excess of eligible employee qualified wages and health insurance costs (up to \$20,000) over the amount of such wages and costs incurred by the employer in 1993 (the "base year"). Accordingly, if an employer incurred no eligible employee qualified wages or health insurance costs during the base year, the employer's Indian employment credit during the current year would be a maximum of \$4,000 per eligible employee. The Indian employment credit is set to expire for tax years beginning after December 31, 2013.

Reasons for Change

Originally enacted in 1993, the Indian employment credit has been extended numerous times. Often, extension of the credit has been retroactive or near the expiration date, creating uncertainty for employers regarding the availability of the credit and potentially limiting the incentive the credit provides for employers to employ Indian tribal members. In addition, updating the base year of the Indian employment credit would restore the incremental feature of the credit and eliminate the need for taxpayers to maintain tax records much longer than under normal requirements.

Proposal

Permanently extend the Indian employment credit and modify the base year from 1993 to the average of qualified wages and health insurance costs for the two tax years prior to the current year. This proposal is consistent with the legislative changes proposed in the Obama Administration's Fiscal Year 2014 budget. See *General Explanation of the Administration's Fiscal Year 2014 Revenue Proposals*, p. 14 (available at <http://www.treasury.gov/resource-center/tax-policy/Documents/General-Explanations-FY2014.pdf>).

Suggested Language

Permanent Extension of the Indian Employment Tax Credit.

- (1) Section 45A of the Internal Revenue Code of 1986 (relating to Indian employment credit) is amended by striking subsection (f).